

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT, IN
AND FOR PALM BEACH COUNTY,
FLORIDA

CASE NO.: 502009CA040800XXXXMBA

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

JUDGE: HAFELE

vs.

SCOTT ROTHSTEIN,
individually, BRADLEY J.
EDWARDS, individually,

Defendants/Counter-Plaintiff,

**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S MOTION TO
STRIKE PORTIONS OF DEFENDANT/COUNTER-PLAINTIFF BRADLEY
EDWARDS'S WITNESS AND EXHIBIT LIST OR COMPEL PROPER
RESPONSES IN ACCORDANCE WITH THIS COURT'S ORDER**

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein"), by and through his undersigned counsel and pursuant to Paragraph IV of this Court's Order Setting Jury Trial and Directing Pretrial and Mediation Procedures and the *Florida Rules of Civil Procedure*, moves this Court to strike the portions of Defendant/Counter-Plaintiff Bradley Edwards ("Edwards") "witnesses" listed below and prevent use of any of the witnesses at trial for his failure to comply with this Court's Order. Alternatively, Epstein requests that this Court compel Edwards to comply with this Court's Order and modify all subsequent deadline dates so as to not prejudice Epstein in preparation for trial or seeking additional discovery. In support thereof, Epstein states:

INTRODUCTION

Edwards noticed this matter for trial on December 3, 2015. On February 8, 2016, this Court entered an Order setting trial in this matter for the trial period of August 29, 2016 through November 4, 2016. After receiving same, Epstein moved to stay this matter or alternatively continue the trial date until such time as the Florida Supreme Court ruled on the Litigation Privilege issue. This Court denied Epstein's first Motion, without prejudice. As the trial date approached, Epstein filed a renewed Motion to stay or continue the trial date, and after hearing on Epstein's Motion, this Court entered an Order resetting this case for the October 24, 2016 trial period, and further ordered that the initial trial order dates be adjusted in accordance therewith. A true and correct copy of the initial Court Order Setting Jury Trial and Directing Pretrial and Mediation Procedures (hereinafter "Order"), and the Order resetting the trial period, are attached hereto as composite "Exhibit A."

Pursuant to the Order's amended dates, the parties were to "exchange lists of all trial exhibits, **names and addresses of all trial witnesses, and names and addresses of all expert witnesses.**" See *Exhibit A*, ¶ II.A (emphasis added). While Epstein provided a proper witness list, containing the names and addresses of all witnesses, Edwards provided a list that failed to provide a proper name or address for several witnesses, which is delineated in detail below. This is the third time that Edwards has filed this witness list with the same deficiencies, and the third time that Epstein has sought intervention from the Court. Edwards consistently espouses readiness for trial, notwithstanding his repeated and blatant failure to comply with the Order. As demonstrated more fully herein, Edwards's actions prejudice the administration of justice, thwart Epstein's ability to timely receive

discovery and adequately prepare for trial, and blatantly violate the Court's Order.

ITEMS TO BE STRICKEN OR AMENDED TO INCLUDE PROPER RESPONSES

Edwards's witness list contains twenty-eight (28) numbered paragraphs. A true and correct copy of same is attached hereto as "Exhibit B." Paragraphs one (1) through seven (7) contain proper names and addresses. Conversely, paragraphs eight (8) through seventeen (17) and paragraphs nineteen (19) and twenty (20) contain proper names only and no addresses, and the remaining paragraphs with which Epstein takes issue provide merely the following:

18. Any and all FBI agents who assisted in the investigation of Jeffrey Epstein.
21. All victims identified in the local, state and federal investigations.
22. All attorneys who have prosecuted claims against Jeffrey Epstein on behalf of other victims.
23. All other named victims.
24. All persons referenced in Edwards' Motion for Summary Judgment.
27. Any and all witnesses whose names appear in depositions, interrogatories, or requests for production provided by Bradley J. Edwards. *See Exhibit B.*

Likewise, Edwards Expert Witness list provides as follows: "Experts include all listed witnesses involved in the prosecution of civil claims against Jeffrey Epstein arising out of Epstein's serial abuse of minor females." *See Exhibit B.*

While it is likely that these witnesses, based upon the "description" given of them, have no relevant or admissible information to provide regarding the elements that Edwards must prove in his claim for Malicious Prosecution against Epstein, Epstein cannot properly determine or evaluate that issue without knowing, at least, the purported witnesses names

and, if warranted, engaging in discovery thereafter.

MEMORANDUM OF LAW

This Court's Order clearly and unequivocally delineates the Pretrial rules with which the parties must comply and the required parameters for such compliance. *See* Exhibit A. Paragraph IV governs Noncompliance, and provides: "**NONCOMPLIANCE WITH ANY PORTION OF THIS ORDER MAY RESULT IN THE STRIKING OF THE CASE, WITNESSES, OR EXHIBITS, OR IMPOSITION OF SUCH OTHER SANCTIONS AS ARE JUST.**" (Emphasis in original). *See* Exhibit A. In the case at hand, Edwards's witness list clearly violates this Court's Order, just as it did the last two (2) times he filed it. This Court's Order requires that Edwards provide "names and addresses of all trial witnesses." *See Exhibit A.* Edwards's serial disregard of this Order by failing to provide proper names and addresses in each of three witness lists he filed in this matter, despite repeated requests by Epstein to correct that failure, mandate the implementation of the remedies set forth in Paragraph IV of the Order and the *Florida Rules of Civil Procedure* governing discovery violations.

The law is clear that "[e]xcept in cases of a clear abuse of discretion prejudicial to the affected party, trial courts must be allowed to enforce pretrial orders to achieve the orderly and efficient administration of justice, fair to all parties." *Fla. Marine Enterprises v. Bailey*, 632 So. 2d 649, 651-52 (Fla. 4th DCA 1994). Courts have held that "decisions regarding the testimony of improperly disclosed witnesses" are squarely "within the broad discretion of the trial judge, who is vested with the interpretation and enforcement of any pretrial order mandating witness disclosure." *Id.* at 651. "Florida courts have explained that the rules of discovery are intended to avoid surprise and trial by ambush." *Agrofollajes*,

S.A. v. E.I. Du Pont De Nemours & Co., Inc., Nos. 3D07-2322, 3D07-2318, 3D07-1036, 2009 WL 4828975, at (Fla. 3d DCA Dec. 16, 2009); *Escutia v. Greenleaf Products, Inc.*, 886 So. 2d 1059, 1062 (Fla. 1st DCA 2004). Here, it is undeniable that Edwards's failure to provide proper names of individual witness for the last four (4) years prejudices Epstein, and thwarts the efficiency of the judicial process.

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served, via electronic service, to all parties on the attached service list, this June 20, 2017.

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